



NEW MEXICO  
**FINANCE AUTHORITY**

*Memorandum*

To: Members of the NMFA Oversight Committee  
From: Marquita D. Russel, NMFA CEO  
Date: November 18, 2021  
Re: Recommendation to Adopt Rules Governing the Cannabis Microbusiness Loan Program under the Statewide Economic Development Finance Act

---

**Item:**

Recommendation to adopt rules for the Cannabis Microbusiness Loan Program (“CMLP”) . If approved, the new program would operate from a sub-account in the Economic Development Revolving Fund (“EDRF”) and would be funded with \$5 million of unused funds transferred from the NMFA operating fund in FY2020 and earmarked for the Essential Services Working Capital Program (“ESWCP”).

**Statewide Economic Development Finance Act:**

Enacted in 2003, the Statewide Economic Development Finance Act (“SWEDFA”) establishes the EDRF and authorizes the NMFA to issue bonds, make loans and provide loan and bond guarantees on behalf of private for-profit and non-profit entities. Similar to the NMFA Act, SWEDFA requires that rules governing the authorized programs be approved by the New Mexico Finance Authority Oversight Committee (“NMFAOC”) and NMFA Board of Directors (“NMFA BOD”). The rules and regulations governing the EDRF were first adopted in November 2005 and the NMFA BOD and NMFAOC subsequently adopted three separate sets of rules to govern different programs.

In 2020, the NMFAOC approved rules governing the ESWCP. This program was operated on a short-term basis and was funded from the transfer of unobligated NMFA operating funds to the EDRF. The ESWCP ceased operations in June 2021 and approximately \$5 million of funds remains available for other uses. The \$5 million would be used to capitalize the CMLP if the rules are approved by the NMFAOC.

NMFA operates its programs with rules that establish a framework for program qualifications and parameters for financial assistance. As mentioned previously, programs established under the NMFA Act and SWEDFA operate under rules established by the NMFA BOD and approved by the NMFAOC. NMFA also operates its programs using Board-approved program policies that provide additional information to applicants and NMFA staff on acceptable structures, credit requirements and pricing as these elements may be subject to change based upon market conditions and portfolio experience.



The attached program rules and policies for the proposed CMLP were approved by the NMFA BOD at its November 18, 2021 Board meeting. The attached rules are presented for the NMFAOC approval and the policies are presented as additional information so that legislators may fully understand how the proposed CMLP would be operated.

**Program Background:**

NMFA was approached by the Superintendent of Regulations and Licensing (“RLD”) about creating a loan program for licensed cannabis microbusinesses because access to capital remains a significant barrier for individuals intended to benefit from the microbusiness license and those applicants meeting the social and economic equity mandate contained in the Cannabis Regulation Act (“CRA”).

Staff has been working with RLD and its Cannabis Regulatory Advisory Committee (“Cannabis RAC”) to develop a program that will prioritize those businesses that meet the social and economic equity targets mandated by CRA and defined by RLD based upon input from the Cannabis RAC. While the Cannabis RAC and RLD are still working through these definitions, the proposed CMLP rules provide that eligible applicants meeting the social, economic and demographic criteria established by RLD will be given priority with additional priority determined by NMFA program policies. The program policies provide that applications will be further prioritized by the median household income of the community where the business is to be located.

The rules further provide:

- NMFA may make secured loans of up to \$250,000;
- Loans may only be made to licensed Cannabis Producer Microbusinesses (producers at a single licensed premise that possesses no more than 200 mature plants at any one time) and Integrated Cannabis Microbusinesses (businesses authorized to conduct one or more activities at a single location: production, manufacture, retail, and courier of medical cannabis products to qualified patients);
- Loan terms of up to five years;
- Minimum 5% equity requirement from applicants. Equity may be in the form of owner contributions (cash or in-kind) or down payments;
- Loan shall be secured by all legally available property, inventory, equipment, and accounts;
- Personal guarantees from all individuals determined by RLD as Controlling Person (an individual serving as an officer, a board member, and/or any individual that controls a



## NEW MEXICO FINANCE AUTHORITY

financial or voting interest of 10% or more of the licensed cannabis microbusiness applicant); and

- Minimum evaluation factors:
  - the education and work history of the officers, managers, Controlling Person(s), members, or partners of the Applicant;
  - the creditworthiness of the Applicant;
  - the viability of the business enterprise;
  - the level of the Applicant's equity in the proposed project;
  - existence of liens or encumbrances on the Applicant's assets;
  - the Applicant's ability to service debt;
  - loan-to-value, debt-to-equity, or other applicable operating and leverage ratios;

The policies provide:

- The loan amount will be based upon the applicant's projected cash flow with a 1.25x cash flow coverage;
- Loans may be structured with an initial interest only period to allow for operational ramp-up;
- Interest rate of:
  - 2% fixed for loans with terms of less than three years or amounts under \$100,000
  - 3% fixed for loans with terms of three years or more or amounts greater than \$100,000
- Loan will have no less than 90% loan to value;
- Applicants must provide evidence relevant technical capacity such as agricultural production or business operations;
- Use of proceeds include buildings, equipment, agricultural inputs and working capital;
- Personal guaranties from all Controlling Persons as well as corporate guaranties from related companies as applicable; and
- Application requirements:
  - Copy of license or conditional license from CCD
  - Consent for CCD to share applicant information with NMFA (completed form)
  - Applicant legal entity type and all entity formation documents, including a certificate of good standing from the New Mexico Secretary of State, if applicable
  - Ownership structure (names and percentage ownership of all owners)
  - Sources and uses of loan proceeds (detailed schedule)
  - Business plan and a minimum of three (3) years of pro-forma financial statements
  - Copy of business permit (or conditional business permit) from local government where business is located if such jurisdiction requires issuance of business permits.



NEW MEXICO  
**FINANCE AUTHORITY**

- Complete list of outstanding loans, along with terms, to Applicant or to any Controlling Person
- Current balance sheet and P&L statement
- Financial statements for last three (3) years, audited or unaudited, if available
- Copy of Social and Economic Equity Plan
- Authorization to obtain a credit report on all owners, Controlling Persons and guarantors

**Recommendation:**

Staff recommends approval of the rules for the Cannabis Microbusiness Program under the Statewide Economic Development Finance Act as presented.

**RULES**  
**GOVERNING THE**  
**CANNABIS MICROBUSINESS PROGRAM UNDER THE STATEWIDE ECONOMIC**  
**DEVELOPMENT FINANCE ACT**  
**AS**  
**ADOPTED**  
**ON**  
**NOVEMBER 18, 2021**  
**BY THE**  
**BOARD OF DIRECTORS**  
**OF THE**  
**NEW MEXICO FINANCE AUTHORITY**  
**AND**  
**APPROVED BY THE NEW MEXICO FINANCE AUTHORITY**  
**OVERSIGHT COMMITTEE [NOVEMBER 30, 2021]**

## **SECTION 1. AUTHORITY; PURPOSE OF RULES.**

On April 12, 2021, Governor Michelle Lujan Grisham signed into law the Cannabis Regulation Act, NMSA 1978, Section 26-2C-1 *et seq.* (“CRA”), which creates a comprehensive licensing, taxing and enforcement regulatory structure for adult use cannabis in the State that will be administered by the Cannabis Control Division (“CCD”) of the Regulation and Licensing Department (“RLD”).

The New Mexico Finance Authority (“NMFA”), pursuant to the provisions of the Statewide Economic Development Finance Act, NMSA 1978, Section 6-25-6 (“SWEDFA”), is granted certain powers enabling it to provide financial assistance to eligible entities from the Economic Development Revolving Fund.

The NMFA, pursuant to SWEDFA’s economic development goal provisions, NMSA 1978, Section 6-25-3(F), is granted authority to provide financial assistance to rural and underserved areas designed to increase business activity, including agricultural projects that add value to New Mexico agricultural products, attract new business and create and promote an environment suitable for the support of start-up and emerging businesses in the cannabis industry.

The NMFA will administer these rules in compliance with the social and economic equity mandate under the CRA and 16.8.1.8 NMAC, which promotes and encourages full participation in the cannabis industry of (i) representatives of communities that have been disproportionately harmed by rates of arrest through the enforcement of cannabis prohibitions; (ii) representatives with racial, ethnic, gender, geographic diversity; (iii) rural communities likely to be impacted cannabis production; and (iv) agricultural producers from economically disadvantaged communities.

These rules govern the implementation and administration of the Cannabis Microbusiness Program as authorized by NMSA 1978, Section 6-25-6(D), and do not apply to other programs established by the NMFA.

## **SECTION 2. DEFINITIONS.**

- A. “Application” means a written document filed with the NMFA by an Eligible Applicant for the purpose of requesting financial assistance.
- B. “Board” means the NMFA Board of Directors.
- C. “Cannabis Producer Microbusiness” means a cannabis producer at a single licensed premise that possesses no more than two hundred total mature plants at any one time.
- D. “CCD” means the Cannabis Control Division created within RLD.
- E. “Controlling Person” has the meaning provided NMSA 1978, Section 26-2C-2 (U), as amended and supplemented from time to time. For purposes of these Rules, a controlling person shall include a person that controls a financial or voting interest of ten percent or more of, or an

officer or board member of, a cannabis establishment, but does not include a bank or licensed lending institution.

F. “Chief Executive Officer” or “CEO” means the Chief Executive Officer of the New Mexico Finance Authority or designee.

G. “CRA” means the Cannabis Regulation Act, NMSA 1978, Sections 26-2C-1 to 26-2C-42, as amended and supplemented from time to time.

H. “Credit Committee” means a committee of NMFA staff appointed by the NMFA’s CEO.

I. “Economic Development Department” means the New Mexico Department of Economic Development.

J. “Economic Development Revolving Fund” means the fund created pursuant to NMSA 1978, Section 6-25-13 of SWEDFA.

K. “Economic Development Committee” means a committee, appointed by the chairman of the Board, from the members of the Board.

L. “Eligible Applicant” means (i) a cannabis establishment that is a for-profit or not-for-profit business, including an agriculture enterprise, and includes a sole proprietor, corporation, limited liability company, partnership or other entity, as determined to be engaged in an enterprise that serves an economic development goal and is suitable for financial assistance, (ii) that has been deemed eligible by EDD, (iii) that has been issued a license to operate as a cannabis establishment by the CCD, and (iv) is either a licensed Cannabis Producer Microbusiness or an Integrated Cannabis Microbusiness.

M. “Eligible Entity” has the meaning provided in NMSA 1978, Section 6-25-3(H) of SWEDFA, as amended and supplemented from time to time. For purposes of these rules, an eligible entity shall include certain Integrated Cannabis Microbusinesses or Cannabis Producer Microbusinesses under the CRA and further defined in the CRA, as amended and supplemented from time to time.

N. “Financial Assistance” means loans from the Economic Development Revolving Fund provided by the NMFA to Applicants pursuant to these rules and Program Policies adopted by the NMFA, as amended and supplemented from time to time.

O. “Integrated Cannabis Microbusiness” means a person that is authorized to conduct one or more of the following: (i) production of cannabis at single licensed premises; (ii) manufacture of cannabis products at a single licensed premises; (iii) sale or transportation of only cannabis products produced or manufactured by that person; (iv) operation of only one retail establishment; and (v) couriering of cannabis products to qualified patients, primary caregivers or reciprocal participants or directly to consumers.

P. “NMFA” means the New Mexico Finance Authority.

Q. “Oversight Committee” means the joint interim legislative committee established pursuant to NMSA 1978, Section 6-21-30 of SWEDFA, as amended and supplemented from time to time.

R. “Program” means the Cannabis Microbusiness Program administered by NMFA and authorized by SWEDFA and these rules.

S. “Program Policies” means the policies adopted by the NMFA to provide guidance to potential borrowers and NMFA staff regarding the terms of financial assistance for the Program, including program eligibility, Application requirements, general considerations, loan structuring parameters and monitoring requirements.

T. “Quantifiable Benefits” means advancement of economic development goals as measured by SWEDFA, pursuant to NMSA 1978, Section 6-25-3(R), as amended and supplemented from time to time and further identified by the Program Policies.

U. “RLD” means the New Mexico Regulation and Licensing Department.

V. "State" means the State of New Mexico.

W. “SWEDFA” means the Statewide Economic Development Finance Act, NMSA 1978, Sections 6-25-1 to 6-25-29, as amended and supplemented from time to time.

### **SECTION 3. APPLICATION FOR FINANCIAL ASSISTANCE.**

A. Applications will be available to Eligible Applicants pursuant SWEDFA’s economic development goals provisions and targeted by the CRA’s social and economic equity mandate to promote and encourage full participation in the cannabis industry.

B. A complete Application for financial assistance includes information relating to the proposed use of financial assistance proceeds, evidence of the Applicant’s creditworthiness, and any other matters the NMFA may consider appropriate, which may include, but is not limited to, any of the following:

1. Applicant legal entity type and formation documents, including a certificate of good standing from the New Mexico Secretary of State, if applicable;

2. Ownership structure of Applicant (for each owner detailing name, address, percentage ownership);

3. Sources and uses of financial assistance proceeds (detailed schedule);

4. Business plan and a minimum of three (3) years of proforma financial statements, as further set forth in the Program Policies;

5. Copy of license or conditional license from CCD;
6. Copy of permit or conditional permit from the local government where the business is located, as applicable;
7. a complete list of outstanding loan(s) to the Applicant or to any Controlling Person as defined under the CRA, member, partner or stockholder of the Applicant;
8. authorization to obtain a credit report of the Applicant and the guarantor, as applicable;
9. a current balance sheet and year-to-date profit and loss statement for the Applicant, dated not more than ninety (90) days prior to the date of Application, a fiscal year-end balance sheet, and the Applicant's profit and loss statement for the prior three (3) years or audited financial statements, as applicable;
10. federal income tax return for the prior two (2) years on all guarantors and co-borrowers, as relevant;
11. copies of the Applicant's federal income tax returns for the prior three (3) years if the balance sheets and profit and loss statements required from the Applicant in this Section are not audited by a certified public accountant; and
12. any other information requested by the NMFA to evaluate the Application.

C. If the Applicant is a newly created entity formed for the sole purpose of doing business under the CRA, the Applicant shall provide the information in paragraphs 1 through 12 of this Section 3 for the Applicant's existing entities, if any, the Applicant personally, if requested, or any other information requested by the NMFA to evaluate the Application.

D. All communications regarding Applications for Financial Assistance shall be directed to the CEO or other staff member of NMFA designated by the CEO.

#### **SECTION 4. EVALUATION OF APPLICATION; COMMITMENT.**

A. Priority will be given to Eligible Applicants that meet social, economic, demographic and/or other criterion as defined by RLD, from time to time. Once Applicants have met the initial criteria outlined by RLD, priority will be further determined in accordance with the provisions of the Program Policies.

B. All complete Applications meeting these rules will be reviewed by the Credit Committee. Projects recommended for approval by the Credit Committee will be presented to the Economic Development Committee.

C. The Economic Development Committee will consider Applications for Financial Assistance recommended by the Credit Committee and may confer with outside parties such as the CCD or others as necessary to obtain information on the Applicant or viability of the project. Financial Assistance recommendations by the Economic Development Committee will be presented to the Board for its approval or disapproval. To the extent required by law, the NMFA will confirm with the Economic Development Department that the Applicant is an Eligible Entity and is engaged in an enterprise that serves an economic development goal and is suitable for financing assistance, as defined in the SWEDFA.

D. NMFA will evaluate each Application in accordance with these Rules, and will determine whether to approve an Application for Financial Assistance based on:

1. whether the requirements of the SWEDFA and these Rules have been met;
2. the Applicant's experience, including past relevant experience across business sectors and models, including managing similar enterprises, if any;
3. the education and work history of the officers, managers, Controlling Person(s), members, or partners of the Applicant;
4. the creditworthiness of the Applicant;
5. the viability of the business enterprise;
6. the level of the Applicant's equity in the proposed project;
7. existence of liens or encumbrances on the Applicant's assets;
8. the Applicant's ability to service debt;
9. loan-to-value, debt-to-equity, or other applicable operating and leverage ratios;
10. the Applicant's Quantifiable Benefits, including the impact on local job creation and projected total gross receipts and tax collections, and other fee and revenue collections resulting from the Applicant's business enterprise; and
11. the ability of the Applicant to continue providing goods and services that are critical for public health, safety and welfare of New Mexicans.

E. Once a recommendation has been made on the Application by the Economic Development Committee, the Board will consider the Application no later than the next regular Board meeting at which such item may be properly considered, or forty-five (45) days after Economic Development Committee action, whichever comes first. The Board may approve all or part of the Application as recommended by the Economic Development Committee and shall either adopt the findings set forth in the recommendation with respect to, without limitation, eligibility,

nature of the project, and the adequacy of consideration, or shall specify the Board's own findings on those subjects. Board approval may specify, at the Board's discretion, terms and conditions of the financial assistance as necessary to ensure repayment, including but not limited to, maximum loan term and minimum annual payments.

F. NMFA will evaluate each Application to determine the ability to repay the funds and need for the financial assistance. If the NMFA believes that projected revenues of the Applicant, together with other dedicated sources of repayment, will not be sufficient to repay the requested financial assistance, NMFA will not recommend the Application to the Board.

G. If an Application is approved by the Board, the NMFA will provide a financial assistance commitment.

H. Financial assistance commitments issued by NMFA will be for a term determined by the NMFA, not to exceed five (5) years.

#### **SECTION 5. FINANCIAL ASSISTANCE TERMS.**

A. Financial assistance provided under the program must satisfy conditions prescribed in this Section 5.

B. Financial assistance may not exceed \$250,000 and shall be secured by all legally acceptable collateral whose value exceeds the amount of assistance provided, including, but not limited to equipment, buildings, accounts receivable and inventory, and meets loan-to-value requirements. Collateral may require independent qualified appraisal to estimate fair market value.

C. Financial assistance requires an equity requirement by contribution of a minimum of 5% of the loan amount in a form of an owner contributions, cash or in-kind, or in down payments.

D. Financial assistance secured by real property will require a first-lien mortgage, leasehold mortgage, or deed of trust and assignment of leases and rents, as applicable, which shall be recorded in the county where the property is located, and a title commitment and loan policy of title insurance issued by a title insurance company acceptable to NMFA and in form and content acceptable to NMFA.

E. Financial assistance secured by personal property will require a Uniform Commercial Code tax lien and judgment search to confirm the highest lien level lien on the personal property attainable to accomplish a successful financing, security agreement and the filing of a Uniform Commercial Code Financing Statement in the appropriate county or state offices. The NMFA may, in its discretion, review and approve other encumbrances against the personal property that do not affect NMFA's security for the financial assistance.

F. Unless waived by the NMFA, the Applicant shall obtain insurance coverage on all property securing the financial assistance from responsible companies in such amounts and against such risks as is satisfactory to NMFA.

G. Financial assistance shall require a personal guarantee for repayment to be provided from one or more of the following persons:

1. a partner, Controlling Person, or member of the Applicant;
2. a joint venturer with the Applicant;
3. any stockholder of the Applicant;
4. the parent corporation or a partner, member, or stockholder of the parent corporation if the Applicant is a subsidiary.

H. Financial assistance proceeds shall be used only for the acceptable purposes further determined in accordance with the provisions of the Program Policies.

#### **SECTION 6. CLOSING AND DISBURSEMENT OF FUNDS.**

A. Upon certification by the Applicant that all provisions of the financial assistance commitment have been complied with, the financial assistance will be scheduled for closing.

B. Disbursement of funds will be made using the form prescribed by NMFA in the financial assistance agreement. Conditions precedent to disbursement, if any, must be met prior to disbursing financial assistance proceeds.

#### **SECTION 7. FINANCIAL ASSISTANCE DOCUMENTATION REQUIREMENTS.**

A. All financial assistance documents shall provide that NMFA has all available remedies in the event of a default. Such remedies will include, without limitation, rights to foreclose, repossess collateral, sell collateral at public or private sale, obtain deficiency judgments, and exercise all other remedies available at law or in equity.

B. The interest rate for the financial assistance will be set at the time the NMFA issues a financial assistance commitment.

#### **SECTION 8. MONITORING AND REPORTING.**

After disbursement of funds, borrowers shall submit quarterly financial statement and annual reporting, to include:

- A. complete financial statements;
- B. most recent inspection/compliance report and licensure renewal from CCD; and

C. business performance report, to include job creation metrics; annual certification of all representations, warranties, and covenants; and certification that there have been no ownership changes in the business enterprise.

**SECTION 9. ADMINISTRATIVE FEES.**

A. NMFA may impose and collect reasonable fees in connection with the filing of an Application for financial assistance, including an Application and commitment fee payable upon issuance of a commitment, and reasonable fees for the extension of any commitment.

B. NMFA may establish such other charges, premiums, fees, and penalties as it shall deem necessary for the administration of the program.

**SECTION 10. DURATION AND AMENDMENT OF RULES.**

These Rules may be amended at any time by the NMFA, with the prior approval of the Oversight Committee.

NMFA Programs	Cannabis Microbusiness Program	[11-18-2021] – Original Effective Date
		[ ] – Review Date



NEW MEXICO  
**FINANCE AUTHORITY**

## Cannabis Microbusiness Program Policies

*These Cannabis Microbusiness Program Policies (“Policies”) were adopted on the 18<sup>th</sup> day of November 2021 by the Board of Directors of the New Mexico Finance Authority (“NMFA”), a public body politic and corporate, separate and apart from the State of New Mexico constituting a governmental instrumentality, created by the New Mexico Finance Authority Act, Section 6-21-1 et. seq., NMSA 1978.*

### I. PURPOSE

#### A. Purpose Statement

On April 12, 2021, Governor Michelle Lujan Grisham signed into law the Cannabis Regulation Act, NMSA 1978, Section 26-2C-1 et seq. (“CRA”), which created a comprehensive licensing, taxing and enforcement regulatory structure for adult use cannabis in the state administered by the Cannabis Control Division (“CCD”), which is located in the Regulation and Licensing Department (“RLD”).

CRA provisions specifically include a mandate around Social and Economic Equity, where the RLD must adopt procedures that promote and encourage full participation in the cannabis industry by: (i) representatives of communities that have been disproportionately harmed by rates of arrest through the enforcement of cannabis prohibitions; (ii) rural communities likely to be impacted by cannabis production; and (iii) agricultural producers from economically disadvantaged communities.

RLD believes a significant portion of licensed cannabis microbusinesses owned by minorities or located in rural or economically disadvantaged communities will face disproportionate barriers in accessing the financing they would need to participate in the emerging cannabis industry. To address these barriers, the Cannabis Microbusiness Program will offer affordable financing to cannabis establishments that demonstrate the technical and managerial capacity to operate but are unable to fund start-up costs due to their size, socio-economic or demographic characteristics.

#### B. Objectives

The goal of these Policies is to provide guidance to potential borrowers and NMFA staff regarding the terms of financial assistance the Cannabis Microbusiness Program will offer cannabis establishments. This includes guidance on program eligibility, application requirements, general considerations, loan structuring parameters and monitoring requirements.

## **C. Implementation**

These Policies shall be implemented by the NMFA Board, pursuant to the authority of the Statewide Economic Development Finance Act, Sections 6-25-1 et seq., NMSA 1978, as amended and supplemented from time to time (“SWEDFA”), and may, at times, be waived or revised, if the NMFA Board determines a deviation or revision is appropriate. Any waiver of these Policies will be reflected in the minutes of the public meeting at which the waiver is considered. Any revisions to these Policies will be reflected in a new documented version of these Policies, dated as of the Board approval of the revisions. Any waiver or revision must not conflict with the provisions of SWEDFA.

## **II. DEFINITIONS**

**A.** “Application” means a written document filed with the NMFA by an Eligible Applicant for the purpose of requesting financial assistance.

**B.** “Cannabis Producer Microbusiness” means a cannabis producer at a single licensed premise that possesses no more than two hundred total mature plants at any one time.

**C.** “CCD” means the Cannabis Control Division created within RLD.

**D.** “Controlling Person” means a person that controls a financial or voting interest of ten percent or more of, or an officer or board member of, a “cannabis establishment” (as defined in Section 26-2C-2(U) of the CRA), but does not include a bank or licensed lending institution. “CRA” means the Cannabis Regulation Act, NMSA 1978, Sections 26-2C-1 to 26-2C-42, as amended and supplemented from time to time.

**E.** “Eligible Applicant” means (i) a cannabis establishment that is a for-profit or not-for-profit business, including an agricultural enterprise, such as new or ongoing agricultural projects that add value to New Mexico agricultural products, and including a corporation, limited liability company, partnership or other entity, determined by the New Mexico Economic Development Department (“EDD”) to be engaged in an enterprise that serves an economic development goal and is suitable for financing assistance, (ii) that has been deemed eligible by the EDD, (iii) that has been issued a license to operate as a cannabis establishment by the CCD, and (iv) is either a licensed Cannabis Producer Microbusiness or an Integrated Cannabis Microbusiness.

**F.** “Financial Assistance” means loans from the Economic Development Revolving Fund provided by the NMFA to Applicants pursuant to the Rules and Program Policies adopted by the NMFA, as amended and supplemented from time to time.

**G.** “Integrated Cannabis Microbusiness” means a person that is authorized to conduct one or more of the following: (i) production of cannabis at single licensed premises; (ii) manufacture of cannabis products at a single licensed premises; (iii) sale or transportation of only cannabis products produced or manufactured by that person; (iv) operation of only one retail

establishment; and (v) couriering of cannabis products to qualified patients, primary caregivers or reciprocal participants or directly to consumers.

**H.** “NMFA” means the New Mexico Finance Authority.

**I.** “NMFA Rules” mean the Rules governing the Cannabis Microbusiness Program under SWEDFA adopted by the NMFA Board on November 18, 2021 and approved by the NMFA Oversight Committee on [November 30, 2021].

**J.** “RLD” means the New Mexico Regulation and Licensing Department.

**K.** “SWEDFA” means the Statewide Economic Development Finance Act, NMSA 1978, Sections 6-25-1 to 6-25-29, as amended and supplemented from time to time.

### **III. GENERAL CONSIDERATIONS**

#### **A. Licensed by CCD**

Only Eligible Applicants that demonstrate proof of CCD licensure may submit applications for financial assistance. Applicants approved for financial assistance must maintain and provide annual evidence of CCD licensure for the duration of the term of financial assistance.

#### **B. Prioritization of Applications; Social and Economic Equity**

This program has been designed to prioritize Applications for financial assistance according to the social and economic equity mandate under the CRA and 16.8.1.8 NMAC, which promotes and encourages full participation in the cannabis industry of: (i) representatives of communities that have been disproportionately harmed by rates of arrest through the enforcement of cannabis prohibitions; (ii) representatives with racial, ethnic, gender, geographic diversity; (iii) rural communities likely to be impacted by cannabis production; and (iv) agricultural producers from economically disadvantaged communities.

#### **C. Technical and Managerial Capacity**

Applications failing to demonstrate relevant technical capacity, as evidenced by prior experience in agricultural production, or relevant managerial capacity, as evidenced by professional business operating experience, will not be recommended to receive a loan.

#### **D. Financial Feasibility; Repayment; Security**

Loans will be structured to achieve repayment from operating cash flows without adversely impacting operations. If an analysis of future operating cash flows cannot reasonably demonstrate ability to repay a loan, the loan will not be deemed financially feasible and the corresponding application for financial assistance will be declined. Cash flow from operations will be the primary consideration factor when determining loan repayment, with additional security in the form of collateral and guarantees also considered on a secondary basis.

## **E. Regulatory and Emerging Industry Risk**

The cannabis sector is an emerging industry with developing regulatory frameworks. The NMFA reserves the right to cease review and consideration of applications for financial assistance should the NMFA Board, upon recommendation from NMFA Staff, determine cannabis sector market risks too challenging to support the underwriting and structuring of loans.

## **IV. APPLICATION REQUIREMENTS; PRIORITIZATION**

Applications will be available to Eligible Applicants pursuant SWEDFA's economic development goals provisions and targeted by the CRA's social and economic equity mandate to promote and encourage full participation in the cannabis industry.

### **A. Application Requirements**

Applicants must submit a complete package including the Cannabis Microbusiness Program application form and accompanying attachments, including but not limited to:

- Copy of license or conditional license from CCD
- Consent for CCD to share applicant information with NMFA (completed form)
- Applicant legal entity type and all entity formation documents, including a certificate of good standing from the New Mexico Secretary of State, if applicable
- Ownership structure (names and percentage ownership of all owners)
- Sources and uses of loan proceeds (detailed schedule)
- Business plan and a minimum of three (3) years of pro-forma financial statements
- Copy of business permit (or conditional business permit) from local government where business is located if such jurisdiction requires issuance of business permits.
- Complete list of outstanding loans, along with terms, to Applicant or to any Controlling Person
- Current balance sheet and P&L statement
- Financial statements for last three (3) years, audited or unaudited, if available
- Copy of Social and Economic Equity Plan
- Authorization to obtain a credit report on all owners, Controlling Persons and guarantors

## **B. Application Prioritization**

Priority will be given to Eligible Applicants that meet social, economic, demographic and/or other criterion as defined by RLD, from time to time. Financial assistance will be awarded in monthly rounds. If demand for financial assistance exceeds supply in a given month, financial assistance awards will be prioritized toward Eligible Applicants located in census designated tracts with the lowest median household income (MHI).

## **V. SWEDFA CONFIDENTIALITY**

Information obtained from Applicants or prospective applicants that is proprietary technical or business information shall be held in confidence in accordance with the confidentiality provisions of SWEDFA. Any violation of the SWEDFA provisions can lead to disciplinary procedures including being charged with a misdemeanor.

## **VI. LOAN STRUCTURING PARAMETERS**

### **A. Loan Amounts**

Loan amounts are expected to range between \$50,000 and \$100,000 and are not to exceed \$250,000.

### **B. Use of Proceeds**

Loan proceeds may be used to fund the purchase of assets or operational costs directly related to cannabis production, including:

- Buildings (including greenhouses)
- Equipment (including lighting, security systems)
- Agricultural inputs (including, without limitation, seeds, soil, fertilizers, insecticides, water/irrigation systems)
- Working capital (including lease and utility payments, labor, transportation, technical assistance, professional certification/development, consulting, marketing)

### **C. Maximum Loan Amortization**

Loans will be structured with an initial interest-only period to allow for operational ramp-up and for terms of up to five (5) years.

### **D. Debt Service Coverage Requirement**

At the time of underwriting NMFA requires a debt service coverage ratio of 1.25x or greater, calculated on the maximum annual debt service payment projected over the term of the loan.

#### **E. Interest Rates**

NMFA will provide fixed interest rates of 2% for loans with terms under three (3) years or amounts under \$100,000, and 3% per annum for loans with terms greater than three (3) years or amounts higher than \$100,000.

#### **F. Collateral; Loan-to-Value Requirement**

Loans must be secured by all legally acceptable collateral including, but not limited to:

- Equipment
- Buildings
- Inventory
- Outstanding accounts

Loans will be underwritten with loan-to-value ratios of up to 90%. Applicants should provide an estimate of an asset's fair market value prepared by an independent, qualified appraiser where available. NMFA requires security interests in collateral to be perfected and will require post-filing lien searches that document the approved lien.

#### **G. Equity Requirement**

Applicants are required to contribute a minimum of 5% of the loan amount for loans under \$100,000, and 10% of the loan amount for loans over \$100,000, in the form of owner contributions, cash or in-kind, or down payments.

#### **H. Personal and Corporate Guaranties**

All loans will require personal guaranties of all Controlling Persons. A corporate guaranty may be required if the borrower is a related company.

#### **I. Credit History**

Applicants are required to authorize the NMFA to obtain credit reports on all owners, Controlling Persons and guarantors, both at the time of application and yearly if approved for a loan.

### **VII. MONITORING AND REPORTING**

Borrowers are required to submit quarterly financial statements, and a detailed annual reporting package that includes:

- Latest complete financial statements
- Latest inspection/compliance report and licensure renewal from CCD
- Brief narrative on business performance including job creation metrics

- Certification that all representations, warranties and covenants remain true and correct
- Certification that there has been no change in business ownership/change in control

The NMFA reserves the right to request additional information for monitoring purposes.

## **VIII. REFERENCES**

- New Mexico Finance Authority Act, Section 6-21-1 *et seq.*, NMSA 1978, as amended and supplemented from time to time
- Statewide Economic Development Finance Act, Section 6-25-1 *et seq.*, NMSA 1978, as amended and supplemented from time to time
- Cannabis Regulation Act, Section 26-2C-1 *et seq.*, NMSA 1978, as amended and supplemented from time to time
- Commercial and Medical Cannabis Rules, Title 16, Chapter 8, NMRA, August 24, 2021
- New Mexico Finance Authority Rules Governing the Microbusiness Loan Pool – Cannabis Sector, adopted by the New Mexico Finance Authority Board of Directors on November 18, 2021 and approved by the NMFA Oversight Committee on [November 30, 2021].